



Written by [Selwyn Duke](#) on February 9, 2012

Obama, Contraception, and Freedom of Association: Constitutional Guys Finish Last

What inspired the bizarre questions? First, Santorum is a practicing Catholic who doesn't believe in the use of artificial birth control. Second, responding to a query from ABC's Jake Tapper about a week prior to the debate, Santorum reiterated a constitutional fact: States have a right to ban contraception should they so choose.



To place the matter in further perspective for Tapper, Santorum gave the example of the Texas sodomy law overturned by the Supreme Court. Santorum said that he personally wouldn't support the law, but nonetheless, states have a right to pass such legislation. He then criticized the judicial activism that overturns these laws and pointed out that, if the people find such a law unjust, the proper way to seek redress is through their state legislatures. This, my friends, is Constitutionalism 101.

For having the temerity to grasp and explain the supreme law of our land, Santorum was portrayed as the second coming of Tomás de Torquemada. *Ms. Magazine* ran with the deceptive headline "Santorum...Touts Anti-Contraceptive Position." *OutsidetheBeltway.com* went one better, telling an outright lie with its headline, "Rick Santorum Favors Making Birth Control Illegal." Meanwhile, the drama queens at *Salon* penned the header "Rick Santorum is coming for your birth control." Ooh, that's right, ladies! If Santorum becomes President, you'll be having babies every time you sneeze! As for Tapper at ABC, he (or his editors) ran with "Santorum...Still Supports State Right to Outlaw Contraception." Uh, well, yes. There's a good reason for that.

The Constitution hasn't changed since the last time he supported the state right to outlaw contraception.

Or did the nation pass another amendment and I missed it?

Let's be clear: Our Constitution clearly dictates that states have a wide array of powers. In fact, if a state wants to outlaw apples, it may do so. And guess what?

I support a state's right to outlaw apples.

Now people can say that Selwyn Duke touts an anti-apple position, favors making apples illegal, and is coming for your apples. My, just how will you keep the doctor away?

Meanwhile, in Gotham City (on the Potomac), we know what the big news is. Obama and his minions actually *have* used the force of law in the area of contraception. As part of their ObamaCare Death Star



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mandates they're forcing all employers — even religious ones, such as Catholic hospitals — to offer birth-control through their worker health-insurance coverage. Not only that, this includes drugs such as the “morning-after” pill, which can induce abortion and destroy innocent human life. And the kicker is that Obama is doing this on the federal level, in clear violation of the Constitution.

Do you see the irony? As a devout Catholic, Rick Santorum doesn't believe in using birth control; he also knows that he must attend Mass on Sundays and Holy Days. Yet he never implied that he would outlaw contraception any more than he would attempt to make Mass attendance compulsory. And every sane person knows this. Yet, because he personally adheres to the morality of his Catholic faith, and because he knows that we all should adhere to the legality of the Constitution, he's the bad guy. Moreover, the media, playing this for all it's worth, actually makes a federal (or is it state?) case out of this in a major Republican debate, as if there is a real possibility of having an Anti-Contraception Act of 2013.

So here's what we're to believe: Saying that states have a right to outlaw contraception is some kind of constitutional error, but to mandate contraception federally is securing a right. Santorum merely mentions that states could enforce a contraception law at the end of a gun, and he's a threat; Obama actually does enforce one at the end of a gun, and he's a savior. Okay, got it.

Speaking of constitutional confusion, has anyone noticed what has gotten lost in this debate? Everyone is talking about freedom of religion, but what about freedom of association? Huh? What's that, you say? “What are you, Duke, Ron Paul or somethin'?” Well, let's talk about it.

No one would dispute that I have the right to associate, or not to do so, with whomever I please; this includes the right to include certain people in, or exclude them from, my home on any basis I choose. This might mean excluding punk rockers, churchgoers, tennis players, used-car salesmen or some other group.

Such as contraceptive users.

Now, why should I lose this right because I decide to offer medical services on my property for payment? It is still my castle, paid for with my money and created by the sweat of my own brow.

Even more to the point here, would you support a law forcing parents to buy their sons and daughters contraception? If not, you certainly wouldn't want the government to force people to buy it for strangers. But then, why should anyone lose that right to not be subject to such coercion simply because he decides to offer those aforementioned medical services?

I know, the Supreme Court way back when decided to label businesses “public accommodations” and ruled that such places couldn't discriminate. But this is a judicial-activist rationalization. A court ruling doesn't change morality; it doesn't change the Constitution. And if you have built a business with your own money and effort, you have the moral right to freedom of association and to establish terms of employment. To rob us of these rights legally is nothing less than tyranny.

Yet we haven't heard anyone talk about this in relation to ObamaCare. Why not? Because Uncle Sam's trampling of freedom of association is now so much the status quo that we've become inured to it. We've so blurred the lines between public and private property that people don't even question treating the latter as *public* accommodations.

Of course, if any politician dared espouse freedom of association with all its implications, he'd get the Santorum treatment. This is why we have no one to blame but ourselves when statesmen refuse to uphold constitutionalism. At election time, constitutional guys finish last.



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